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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

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COMMISSIONERS

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JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

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IN THE MATTER OF THE APPLICATION OF
ARIZONA UTILITY SUPPLY & SERVICES,
L.L.C., FOR THE TRANSFER OF A PORTION OF
ITS CERTIFICATE OF CONVENIENCE AND
NECESSITY TO JOHNSON UTILITIES, L.L.C.

DOCKET NO. SW-04002A-02-0837
DOCKET NO. WS-02987A-02-0837

IN THE MATTER OF THE APPLICATION OF
ARIZONA UTILITY SUPPLY & SERVICES,
L.L.C., TO TRANSFER ITS ASSETS AND
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO JOHNSON UTILITIES, LLC.

DOCKET NO. SW-04002A-04-0465
DOCKET NO. WS-02987A-04-0465

PROCEDURAL ORDER

BY THE COMMISSION:

On November 8, 2002, Arizona Utility Supply & Services, L.L.C. ("Applicant" or "AUSS") filed with the Arizona Corporation Commission ("Commission") an application in Docket Nos. SW-04002A-02-0837 and WS-02987A-02-0837 ("the 02-0837 dockets") for the transfer of a portion of its Certificate of Convenience and Necessity ("CC&N") to Johnson Utilities, L.L.C. ("Johnson").

In Decision No. 67586 (February 15, 2005), Johnson was granted an Order Preliminary to the issuance of a Final Order to enable Johnson to acquire specified assets of AUSS and take a number of other actions to enable Johnson to eventually provide retail wastewater service to most of the AUSS service area.

On May 12, 2005, counsel for Johnson, Jay Shapiro of Fennemore Craig, P.C., filed a "Notice of Withdrawal as Counsel of Record" ("Notice of Withdrawal"). The Notice of Withdrawal stated that Richard Sallquist will be taking over representation of Johnson and all future correspondence should be directed to Mr. Sallquist.

Although the Notice of Withdrawal appears to assume that the proposed change of counsel may be accomplished without further action, the Commission's rules clearly require that such a request must be approved by the Commission. A.A.C. R14-3-104(E) states:

1 Withdrawal of attorney. The Commission or presiding officer *may* permit
2 the withdrawal of an attorney from any proceeding *upon written*
3 *application and good cause shown* under such terms, conditions, and
4 notices to clients and other parties as the Commission or presiding officer
5 may direct. Oral application for withdrawal may be made during any open
6 proceeding which is being recorded. (emphasis added)

7 This rule contemplates that withdrawal is permitted only with the approval of the
8 Commission or the Administrative Law Judge following submission of an "application" and
9 explanation why "good cause" exists for granting such application. Simply filing a Notice of
10 Withdrawal does not satisfy the requirements of the rule and, absent the Commission's approval, Mr.
11 Shapiro continues to be Johnson's counsel of record for this proceeding.

12 IT IS THEREFORE ORDERED that counsel of record for Johnson Utilities Company, Jay
13 Shapiro of Fennemore Craig, P.C., shall file by June 17, 2005 an Application for Withdrawal as
14 Counsel which includes an explanation of the reason for the proposed withdrawal and why good
15 cause exists to grant the request.

16 IT IS FURTHER ORDERED that the Ex Parte Rule is still in effect.

17 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
18 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
19 hearing.

20 DATED this 3rd day of June, 2005

21 

22 DWIGHT D. NODES
23 ASSISTANT CHIEF ADMINISTRATIVE LAW JUDGE

24 Copies of the foregoing mailed
25 this 3 day June, 2005 to:

26 Maurice Lee
27 Arizona Utility Supply & Services, LLC
28 4002 E. Taro Lane
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By: 
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Secretary to Dwight D. Nodes